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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Thomas David Starkey
Serial No.: 10/619,985
Filed: May 30, 2003
For: A Device And Method To Limit Filling Of The Heart
Group Art Unit: 3738
Examiner: Bruce Snow
Attorney's Docket No.: N9464-ICW
Customer No.: 23456

RESPONSE TO RESTRICTION ELECTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant is filing this Response to Election Requirement for the above captioned application as a reply to the Office Action mailed August 26, 2004.

This application was filed with 1-34 claims. Claims 1-34 are subject to a restriction requirement. The Office Communication states the application contains claims directed at three separate inventions. Namely, the Office Action requires an election between:

Group I of claims 1-5, 8-11, 14-16, 18-22, 24-26 and 29-34, drawn to a diastolic volume limiting device (DIVOLA), classified in class 623, subclass 3.1

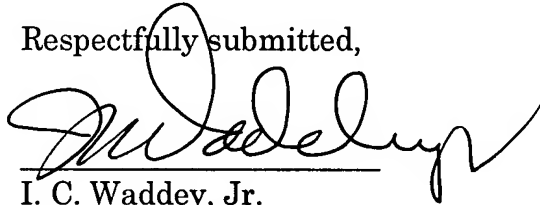
Group II of claims 27-28, drawn to a volume compensation device (VCD), classified in class 600, subclass 18.

Group III of claims 6-7, 12-13, 17, 23 are drawn to a combination of group I (DIVOLA) and group II (VCD), classified in class 623, subclass 3.16.

Applicant hereby elects Group I of claims 1-5, 8-11, 14-16, 18-22, 24-26 and 29-34, drawn to a diastolic volume limiting device (DIVOLA), classified in class 623, subclass 3.1 with traverse.

The Commissioner is authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'I. C. Waddey, Jr.', written over a horizontal line.

I. C. Waddey, Jr.
Registration No. 25,180
WADDEY & PATTERSON
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Application Serial No. 10/619,985
Response to Restriction Election dated August 26, 2004
Customer No. 23456

CERTIFICATE OF FIRST CLASS MAILING

I hereby certify that this Response to Election Requirement is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on September 22, 2004.

I. C. Waddey, Jr.

Signature

Registration Number 25,180

9/22/04
Date